

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

Case No. 1:23-md-3076-KMM

**In RE**

**FTX CRYPTOCURRENCY  
EXCHANGE COLLAPSE LITIGATION**

THIS DOCUMENT RELATES TO:

Law Firms

**DEFENDANT FENWICK & WEST LLP’S RESPONSE PURSUANT TO  
LOCAL RULE 7.8 TO PLAINTIFFS’ SUPPLEMENTAL AUTHORITY  
(BHATIA V. SILVERGATE BANK) IN SUPPORT OF PLAINTIFFS’ OPPOSITION TO  
DEFENDANTS’ MOTIONS TO DISMISS**

Defendant Fenwick & West LLP responds to Plaintiffs’ notice regarding *Bhatia v. Silvergate Bank*, 2024 WL 1199679 (S.D. Cal. Mar. 20, 2024). Dkt. 559. *Bhatia* is inapposite for several reasons.

*First*, *Bhatia* does not involve claims against counsel. As explained in Fenwick’s motion, counsel cannot be held liable for a client’s misconduct based on its provision of routine legal services. Dkt. 276 at 9–15; Dkt. 408 at 10–12, 15–17.

*Second*, the *Bhatia* court’s holding that “actual knowledge” was adequately alleged is inapplicable because it turned on Silvergate’s statutory obligation to monitor FTX’s transactions and Silvergate’s admission that it “conducted significant due diligence on FTX and its related entities.” 2024 WL 1199679, at \*25–26. Plaintiffs do not make similar allegations here. The *Bhatia* court also noted Silvergate’s monitoring raised “red flags” that supported an inference of

knowledge, *id.* at \*25–26, \*28, but “red flags” do not “constitute actual awareness” under Florida law, Dkt. 276 at 17.

*Third*, the *Bhatia* court found the plaintiffs adequately alleged Silvergate “substantially assisted” FTX’s fraud because it “processed transfers that diverted [customer] money from FTX to Alameda.” 2024 WL 1199679, at \*29. Here, Plaintiffs have not alleged that Fenwick processed transactions.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on April 3rd, 2024, I electronically filed the foregoing with the Clerk of Court using CM/ECF, and that the foregoing document is being served on all counsel of record via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to electronically receive Notices of Electronic Filing.

/s/ Nicole K. Atkinson  
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